

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Committee:		Kaua‘i Police Commission	Meeting Date	March 24, 2017
Location	Mo`ikeha Building – Meeting Room 2A/B		Start of Meeting: 9:00 a.m.	End of Meeting: 10:50 a.m.
Present	Chair Mary K. Hertog; Vice-Chair Gerald (Chip) Bahouth; Members: Catherine Adams, Savita Agarwal, Kevin Mince, Donald (Moki) Okami Sr. and Roy Morita. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Jay Furfaro; Office of the County: Deputy County Attorney Peter Morimoto; Police Department: Chief of Police Darryl Perry, Assistant Chief Robert Gausephol.			
Excused				
Absent				
SUBJECT	DISCUSSION			ACTION
Call To Order				Chair Hertog called the meeting to order at 9:00 a.m. with seven (7) members present constituting a quorum.
Chair’s Comments	Chair Hertog asked if there was anyone in the public who wished to testify on any of the items listed on the agenda. There were none.			
Approval of Minutes	Regular Open Session Minutes of February 24, 2017.			Ms. Adams moved to approve the meeting minutes as amended. Vice Chair Bahouth seconded the motion. The motion carried 7:0.
Chief’s Monthly Reports	1.Administrative and Technical Bureau Report 2. Investigative Services Bureau – General Crimes/Major Crimes 3. Section, Special Focus Section, Community Relations Unit and Vice Section 4. Patrol Services Bureau Monthly Activity and Traffic Reports 5. Community Oriented Policing Traffic and /Districting Reports for Līhu‘e, Kawaihau and Waimea 6. Community Oriented Policing Report for Dispatch/Cellblock			

SUBJECT	DISCUSSION	ACTION
	<p data-bbox="430 315 1060 347">7. Chief's Announcements and Pertinent Updates</p> <p data-bbox="369 391 945 423"><u>Administrative and Technical Bureau Report</u></p> <p data-bbox="369 428 1577 651">Vice Chair Bahouth asked if there was an increase in vacant positions since the last Commission meeting because from what he recalls, the number of vacant positions was less than fifteen (15). Assistant Chief Robert Gausephol explained that the six (6) cops' grant positions were moved and filled and the fifteen (15) vacant positions are what's left. He pointed out that in 2012, there were 148 vacant positions and it would still be at that number if it wasn't for the Chief and the Deputy looking for innovative ways to get more positions filled.</p> <p data-bbox="369 691 1577 837">Chair Hertog asked how many recruits are left in the current recruit class to which A/C Gausephol replied there are six recruits left and all six have passed the traffic portion of the hiring phase. Chair Hertog asked if the graduation ceremony is on track for July to which A/C Gausephol replied yes.</p> <p data-bbox="369 878 1577 1179">Mr. Mince asked A/C Gausephol if he could provide an update on the school traffic monitor job description and explain to the Commission where those positions are going to be placed. A/C Gausephol stated that the Hawai'i Revised Statutes recognizes the position as a traffic monitor and not a school crossing guard, so they are working on having the job description language to reflect exactly what the actual law says. In regard to his question about where those positions are going to be placed, the department is looking at placing the positions at the elementary schools and treat it like a young trainee (cadet) with the intention of grooming him or her for a police officer position.</p> <p data-bbox="369 1219 1577 1325">Mr. Mince asked what the prognosis is of having it come to fruition. A/C Gausephol replied they're far from that stage because they have to do a lot more research in terms of what the job would actually entail and the salary range.</p>	

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	<p>Vice Chair Bahouth asked, relative to the nineteen (19) new SUV's that was issued to the Patrol Services Bureau in February 2017, if the department was still on track to replace the other older vehicles to which A/C Gausephol replied strategically speaking, the department has a three (3) year plan that calls for the purchase of fifteen (15) new vehicles per year which was approved by Mayor Carvalho and hopefully by Council.</p> <p>Additionally, Vice Chair Bahouth asked about the recent break-in at the KPAL facility and about the surveillance camera not being activated.</p> <p>Captain Mark Ozaki explained that the surveillance camera was put in to only monitor the activities outside of the facility, not to record live stream. In regard to his question about the surveillance camera not being activated when the incident happened, a decision was made to disconnect the power because KPAL had no running activities going on and so rather than have the non-profits pay for electricity that they would never use, they decided to turn off the power until such time KPAL decides to reactivate their programs.</p> <p>Ms. Agarwal asked if there was anything missing in the written exam as well as the psychological exam that may have caused the ratio to be less than 30%. A/C Gausephol replied it's actually less than 30%, explaining that there are multiple gates a person has to pass through in order to get hired and the written exam is just one aspect of the hiring process and it's not that difficult to pass. But as the person continues to move forward, some either drop out or are disqualified, which is probably why the ratio is less than 30%.</p> <p>Chair Hertog thanked the district commanders and the officers for getting involved, not just in KPAL and other police community activities, but for volunteering to coach football.</p> <p><u>Chief's announcements:</u></p> <ul style="list-style-type: none">• Met with the members of the Joint Terrorism Taskforce.	

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	<ul style="list-style-type: none"> • Sent an email to his counterparts from the other counties asking for their input in the type of methods they use to fund the project graduation. Once he gets the information, he will share it with the Commission. • Filmed a budget presentation with Mayor Carvalho for Hoike public television. KPD’s budget presentation at Council for FY 2017-2018 is scheduled for March 31, 2017, which includes a \$3 million dollar increase to cover the anticipated salary increases, the cost to lease the Kapa‘a Armory, a new evidence facility on the grounds of the Līhu‘e Headquarters and fifteen new vehicles. Almost 91% of the budget goes towards salaries, which leaves roughly 8 or 9% for operations and if KPD continues on this path, KPD may have \$100,000 to give back to the general fund. • Shared an article he read in newspaper about a plane being seized by US military carrying 700 pounds of cocaine, 350 pounds of meth and 93 pounds of heroin; all of which was headed to California. • Shared an email he received by Katherine Caswell – Kaua‘i Chapter of the ACLU regarding the new administration’s immigration policies. One of the concerns he shared with her had to do with local law enforcement not being able to do anything about undocumented illegal aliens not wanting to report rape crimes in fear of deportation. • Plans are being made to meet with the seniors from the various communities to talk about various issues; one in particular is the type of scams that are out there and how not be victimized. <p>Ms. Adams stated that she enjoyed the orientation and expressed her appreciation to the people who organized it. Relative to her excursion up to the firing range, Ms. Adams inquired about the possibility of forming a permitted interaction group to look into any funding concerns KPD may have, so when the time comes to renegotiate the lease, the Commission would have enough information to help KPD renegotiate the lease for the use of the firing range.</p>	

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	<p>Mr. Morita stated prior to going on the orientation, if someone were to ask him to describe KPD, his answer would be its men and women in squad cars responding to various calls. But since he attended the orientation, he now has a different perspective on how KPD operates and he highly recommends that all new Commissioners should take part in the orientation.</p> <p>Chief Perry gave a status report of KPD's goals and answered questions.</p> <p><u>Goal #1 Crime Prevention</u> Out of the six Neighborhood Crime Watch Programs, three (3) security watch programs have been implemented; one each in Wailua, Kalāheo and Līhu'e.</p> <p><u>Goal #2 Narcotics Enforcement</u> KPD is in the process of obtaining a new dog (Bika) to replace Simon who is scheduled to be decommissioned on April 9th.</p> <p><u>Goal #3 Succession Planning</u> Plans are in the works to provide its employees (civilian and sworn) with continuous online training for its promotional process.</p> <p><u>Goal #4 Crime Reduction</u> KPD is continuously working hard to reduce the number of outstanding bench/arrest warrants. The Department has approached the Sheriff's office to ask for assistance but to date, the Department has not received any help.</p> <p>Mr. Morita asked who is responsible for carrying out the bench warrants. Chief Perry replied the responsibility originally came under the Sheriff's jurisdiction but since the language has changed, the police department is now responsible.</p>	

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	<p><u>Goal #5 Traffic Safety</u> Traffic enforcement is up forty-five percent.</p> <p><u>Goal #6 Expand Response Capabilities</u> Efforts are on-going to establish a Crisis Intervention Team (CIT) to provide training for first responders.</p> <p>Chair Hertog asked if the Feds have indicated if they would be providing standardized crisis intervention training to which Chief Perry replied the Feds will be working with all of the local and state law enforcement agencies and KPD will certainly be part of the training.</p> <p><u>Commission Goals: Goal #7 Implementation of the Burglary Alarm Ordinance</u> KPD is still working on it.</p> <p>Chair Hertog asked if the Commissioners could get a report on the progress KPD is making at the Commission’s next meeting in April because it has to be inserted into the Department’s new Records Management System to which Chief Perry replied okay.</p> <p>Mr. Mince asked if the plan is to contact every household on Kaua‘i that has a burglary alarm system to inform the resident that they have to register their alarm system. According to the report, permits are being issued and are being inputted into the system, but after talking to people he knows that have a burglary alarm system, they’re still ignorant of the ordinance. He asked if KPD has a game plan to find out which business or residence has a burglary alarm system because the money generated by the alarm system should pay for the position to run it.</p> <p>A/C Gausephol stated for clarification that the position is being funded by the County. Mr. Mince stated that according to the ordinance, the fees collected will be used to pay for the position to run it. To answer his question about KPD having a game plan to find out which business or residence has a burglary alarm system, normally whenever a call comes in about an alarm going off, the responding officer would normally check to see if the business or</p>	

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	<p>residence is registered and if not, they're going to be assessed a service charge of \$100. Mr. Mince stated that's all fine but there's still going to be a large body of people on the island whose alarms may never go off.</p> <p>Chair Hertog stated that the point Mr. Mince is trying to make is a lot of people does not know that an ordinance exists because it hasn't been advertised for couple of years. Initially, when the ordinance first came out, there was an article in the Garden Island Newspaper, but that was two or three years ago and so what is needed right now is a publicity plan to inform the community about the ordinance and the ramifications of not being in compliance with the ordinance.</p> <p>A/C Gausephol added it would also help to talk to the companies that install the burglar alarms about the ordinance so they can notify their customers.</p> <p>Mr. Morimoto advised the Commissioners that they can identify the problem(s) but as far as dictating what course of action the Police Department should take in response to the problem, it should be left to the Chief.</p> <p>Mr. Mince stated the ordinance is six (6) years old and it hasn't been implemented yet, asking if the Commissioners have the responsibility as the Police Commission to say to the Chief of Police "you need to implement this and you need to implement it now". Mr. Morimoto stated no, by doing so would violate the Charter. Ms. Adams noted the issue is in the Chief's goals so the Commission has it covered.</p> <p><u>Goal #8 Meet the standards set forth by the Department of Justice regarding Uniform Crime Reporting data, and testing of sex assault kits</u> Uniform Crime Reporting data is on track. Testing of sexual assault kits - there was a glitch and the testing may have to be extended to May.</p>	

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	<p><u>Goal #9 Minimize road closures times after a major traffic accident</u> Following the three recent (3) road collisions in the past week, the Department was able to open the roads within a reasonable time to allow the flow of traffic through.</p> <p>Mr. Mince stated that he thinks it’s great that KPD has the road closures down to an hour and fifteen minutes, asking how KPD determines how long it should close the roads.</p> <p>Chief Perry explained that what they did was look at the averages from last year and compared it to this year, adding each situation dictates what needs to be done and the hour and fifteen minutes road closure Mr. Mince was referring to was determined by KPD’s directives to open the roads as soon as possible.</p>	
<p>Business KPC 2016-17</p>	<p><u>Report by the Permitted Interaction Group (PIG) on its recommendations to host the 2017 State of Hawai‘i Police Commissioners’ Conference on May 11-12 at the Marriott Resort & Beach Club.</u></p> <p>Staff reported that the speakers and conference program are in the process of being solidified and everything is currently on track.</p>	
<p>KPC 2016-05</p>	<p><u>Report by the Permitted Interaction Group (PIG) on creative financing for the recovery of costs for services provided by Kaua‘i Police Department.</u></p> <p>Mr. Mince reported that following the Commission’s meeting last month, the PIG members had a chance to meet with County Attorney Mauna Kea Trask to talk about the overall concept of cost recovery and part of the discussion included a memo from Mr. Morimoto that addressed some of the issues.</p> <p>Vice Chair Bahouth added that at the meeting, Mr. Trask basically pointed to the direction the Commission should be looking at in terms of legislation to acquire recovery costs.</p>	

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	<p>Mr. Trask explained that in essence, there needs to be some type of enabling legislation at the State level to allow the idea to proceed and without getting into much into the details, there was a Medeiros case in which the City and County Prosecuting Attorney was trying to get people who were convicted of a DUI to pay for the regulatory fee, but the court felt that the fee was an improper tax. So to do anything similar in this case would result in the same premise unless the Commission changes the State law which can be easy or general as the County's has the authority to charge fees for certain things. However, without any specifics at the State level, he doesn't think the idea would fly.</p> <p>Chair Hertog stated that the Commission wants to stay within the parameters that was given to them by the Mayor and the County Councilmembers and with Mr. Trask's guidance, it's either the Commission will move forward or do something else creative or different.</p> <p>Mr. Trask stated that he's a fan of trying (professionally) to get the client what they want, but unfortunately in Hawai'i (as everyone knows) the State is the overarching authority for a lot things. As an example, the GMO issue illustrates how powerful the State is aside from its power to tax real property as stated in the State constitution Article 8, Section 3. The Counties are at the short end of the stick because the legislature dictates to the Counties what type of powers they have, whether the Counties want to or not under Article 46-5.1. Relative to the direction as to why the Mayor and Council wants the Commission to work within the condition of the ordinance, by doing so, the Commission would not have to go to the State which would make it easier because by going to the State Legislators, they may end up taking some things out. Relatively speaking, it's a tenuous process and although the law is pretty clear on this issue, he's willing to look into it.</p> <p>Mr. Mince stated that to put things in summation, the process started at the Commission level then went up to the Mayor and Council for input and as a result, they both liked the overall concept, but they need to find the funding and they didn't want to go to the legislature, so the matter was turned over to Mr. Trask. He added once Mr. Trask comes back to them (PIG), they as a group would have to say to the Mayor and the Council we've done everything we</p>	

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	<p>could so it's up to them to follow through or not.</p> <p>Vice Chair Bahouth stated that the question is how we (KPD) are going to get these individuals to pay when the County hasn't been doing it for years. Mr. Trask stated he's worked with a lot of officers and he had qualms about going after the person and when he started to work in the County Attorney's office, (anecdotaly) he went after the State and sued them for the water they owed to the County, but a couple of weeks later he got called into Al's office to explain what was he doing and in addition, he was advised by the Attorney General to back off.</p> <p>Mr. Trask stated that his office will continue to do what they can, but he would like to encourage the Commission to look at other opportunities. Working in politics is a numbers game; the more numbers you get, the more votes you get. The State has no police officers so if all of the counties, Police Commissions and SHOPO could come together and identify a common problem and present it to the legislators, that in itself would speak volumes.</p>	
KPC 2017-06	<p><u>Discussion on the Police Department's budgetary goals for Fiscal Year 2017-2018 and related matters.</u></p> <p>Chief Perry gave a summary of the Department's proposed \$35 million dollar budget, highlighting the Department's ability to reduce its overtime by 31,000 hours (a savings of \$1.5 million dollars), the new proposed Kawaihau Substation, as well as the escalating cost of contract negotiations that will have a direct effect on the salaries.</p>	
Announcements	<ul style="list-style-type: none"> • Next regular monthly meeting - Friday, April 28, 2017, 9:00 a.m. at the Mo`ikeha Building, Meeting Room 2A/2B. Executive Session to follow. 	
Executive Session Items	<p>Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer or employee of the County, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting</p>	<p>At 9:53 a.m. Vice Chair Bahouth cited the Hawai'i Revised Statutes to enter into Executive Session.</p>

SUBJECT	DISCUSSION	ACTION
ES KPC 2017-005	shall be held; and to consult with its attorney on issues pertaining to the Commission’s and the County’s powers, duties, privileges, immunities, and/or liabilities as they may relate to the following agenda items: Chief Perry’s monthly update on the status of the Department’s disposition on formal notarized complaints that were filed with the Police Commission and forwarded to the Office of the Chief for further review. (On-going)	
ES KPC 2017-006	Briefing on any significant adverse incidents/events involving KPD personnel that could potentially impact the County, Commission and the Kaua‘i Police Department. (On-going)	
ES KPC 2017-007	Communication dated March 7, 2017 from Chief of Police Darryl Perry to Chair Mary K. Hertog regarding, the Department’s disposition of KPC Notarized Complaint No. 2016-011 that was filed with the Police Commission on December 2, 2016 and with the Kaua‘i Police Department on December 16, 2015 as Complaint No. KPD ADM 16-0309.	
ES KPC 2017-008	New notarized complaint No. KPC 2017-001 filed on February 21, 2017. The complainant alleges that after being told that his cellphone would be returned to him upon his release, he did not get it back. The complainant also alleges that while being transported to KPD’s cell block, he was improperly placed in the patrol car which caused injuries to his back and left thigh.	
ES KPC 2017-009	New notarized complaint No. KPC 2017-002 filed on March 9, 2017. The complainant alleges an officer of the county was unprofessional by making an unnecessary rude comment to the complainant.	

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ES KPC 2017-010	Pursuant to Hawai‘i Revised Statutes §92-4, §9-5 (a) (1), (2), (4) and (5), the purpose of this Executive Session is to consider a request for legal representation be provided by the Office of the County Attorney to the following officers in the Kaua‘i Police Department: Paul Applegate, Elliott Ke, Sherwin Perez, Alejandro Quibilan, Darla Abbatiello, James Miller, Randolph Chong-Tim, Brandy Ledesma, Scott Williamson and Christian Jenkins, in both their respective individual and professional capacities as it relates to Civil No. CV16-00350 filed in the United States District Court for the District of Hawai‘i against the County of Kaua‘i, the Kaua‘i Police Department, Police Chief Darryl D. Perry, Deputy Chief of Police Michael Contrades, Assistant Chief Roy Asher, and DOE Defendants 1-100. This consultation also involves the consideration of powers, duties, privileges, immunities and or liabilities of the County and the Police Commission as they may relate to this agenda item.	
ES KPC 2017-011	Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve or amend the Executive Session minutes of February 24, 2017 , and to consult with its attorney on issues pertaining to the Commission’s powers, duties, privileges, immunities, and/or liabilities as they may relate to this agenda item.	Ms. Adams moved to enter into Executive Session. Mr. Okami seconded the motion. The motion carried 7:0.
Return to Open Session to Ratify the actions taken in Executive Session	At 10:50 a.m. the Commissioners reconvened in Open Session. Chair Hertog called for a motion to ratify the actions taken in Executive Session.	Vice Chair Bahouth moved to ratify the actions taken in Executive Session. Ms. Adams seconded the motion. The motion carried 6:0. ES KPC 2017-005: Commissioners briefed. On-going ES KPC 2017-006: Commissioners briefed. On-going

SUBJECT	DISCUSSION	ACTION
		<p>ES KPC 2017-007: Motion carried 6:0 to receive the report on KPD's Disposition of notarized complaint KPC 2016-011.</p> <p>ES KPC 2017-008: Motion carried 6:0 to accept notarized complaint No. KPC 2017-001. Motion carried 6:0 not to uphold notarized complaint No. KPC 2017-001.</p> <p>ES KPC 2017-009: Motion carried 6:0 to accept notarized complaint KPC 2017-002. Motion carried 6:0 not to uphold notarized complaint KPC 2017-002.</p> <p>ES KPC 2017-010: Motion carried 5:0 to grant legal representation to officers in KPD relating to CV16-00350.</p>

SUBJECT	DISCUSSION	ACTION
		ES KPC 2017-011: Motion carried 6:0 to approve the Executive Session meeting minutes of February 24, 2017.
Adjournment	With no further business to conduct, Chair Hertog called for a motion to adjourn the meeting.	Ms. Agarwal moved to adjourn. Mr. Morita seconded the motion. The motion carried 6:0. At 10:50 a.m. the meeting adjourned.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Mary K. Hertog, Chair

(x) Approved as circulated on April 28, 2017

() Approved as amended. See minutes of _____ meeting.